

Questions and Answers Regarding the Critical Habitat Proposal for Canada Lynx

Q – What action is the Fish and Wildlife Service taking?

A – The Service is proposing critical habitat designations for the Canada lynx, a threatened species protected under the Endangered Species Act (ESA), in portions of northern Maine, northeastern Minnesota, the northern Rocky Mountains (northwestern Montana and a small portion of northern Idaho), and the Okanogan area of the northern Cascades in north-central Washington.

A final decision regarding the critical habitat designation will be made in November 2006 following the completion of an economic analysis and an extensive public comment period with public hearings and informational meetings.

Q – Why is the Service proposing critical habitat?

A – This critical habitat proposal is in response to a lawsuit filed by the Defenders of Wildlife and others and is made in compliance of a court order requiring the Service to propose critical habitat for the Canada lynx by November 1, 2005 and issue a final determination by November 1, 2006.

Q – What is critical habitat?

A – Critical habitat is a term in the ESA. It identifies geographic areas that contain features that contribute to the conservation of a threatened or endangered species and may require special management or protection. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. It does not allow government or public access to private lands. Critical habitat has no regulatory impact on private landowners taking actions on their land, unless they are doing something that involves Federal funding or permits. However, landowners must consult with the Service before taking actions on their property that could harm or kill protected species or destroy their habitat, regardless of whether critical habitat has been designated.

Critical habitat is determined after taking into consideration the economic impact it could cause, as well as any other relevant impacts. The Secretary of the Interior may exclude any area from critical habitat if the benefits of exclusion outweigh the benefits of inclusion, as long as the exclusion would not result in the extinction of the species.

Q – Would the Canada lynx only be protected in critical habitat areas?

A – No. All other protections afforded by the ESA apply to all members of the species within the range where listed, regardless of whether they inhabit designated critical habitat or not. Listed species, both inside and outside critical habitat, are protected from

'take,' which includes harming (e.g., shooting, killing, trapping, collecting) and harassing individual animals. However, incidental taking that may result from, but is not the purpose of, otherwise legal activities may be allowed with a permit from the Service.

Q- What is the historical and current range of the Canada lynx?

A - The historical and current range of the lynx in the contiguous United States is within the boreal forest in five geographic regions: the Northeast, the Great Lakes, the Northern Rocky Mountains, the Southern Rocky Mountains, and the Cascade Mountains.

The Canada lynx is protected as a threatened species under the Endangered Species Act throughout its current range, which includes Colorado, Idaho, Maine, Michigan, Minnesota, New Hampshire, New York, Oregon, Montana, Utah, Vermont, Washington, Wisconsin, and Wyoming.

Q – What is being proposed as critical habitat for the Canada lynx?

A - The Service is proposing critical habitat within the following geographic regions where lynx are known to occur. These areas have recent verified records of lynx occurrence and reproduction and thus are considered occupied. Details of the proposed critical habitat locations and maps can be found on our web site at:

<http://mountain-prairie.fws.gov/species/mammals/lynx>. Generally, the proposed critical habitat designations include:

Northeast:

Maine - approximately 10,633 square miles in portions of Aroostook, Franklin, Penobscot, Piscataquis and Somerset Counties;

Great Lakes:

Minnesota: approximately 3,546 square miles in portions of Cook, Koochiching, Lake, and St. Louis Counties

***Northern Rockies:**

(Montana and Idaho): approximately 10,760 square miles in portions of Boundary County, Idaho; and Flathead, Glacier, Granite, Lake, Lewis and Clark, Lincoln, Missoula, Pondera, Powell, and Teton Counties in Montana

***Cascades:**

Washington: approximately 1,996 square miles in portions of Chelan and Okanogan Counties

*Note: U.S. Forest Service lands in Idaho, Montana, and Washington are not included in this proposal, although their area is reflected in the total number of square miles. Accurate estimates of these Federal lands were not readily available; however, the square mile totals will be corrected in the final designation.

Q – What is the land ownership of the proposed critical habitat areas?

Across the five states included in the current proposal, the land ownership of the

proposed critical habitat units is 41 percent Federal, 49 percent private, 10 percent State and other, and 0.6 percent Tribal.

Critical habitat proposed for the Canada lynx by landownership and State (miles²)

	Federal	State	Private	Tribal	Other
Idaho *	50	1	0	0	0
Maine	13	758	9,741	86	35
Minnesota	440	1,355	1,661	74	15
Montana *	8,589	365	1,691	0	63
Washington*	1,826	164	5	0	0.5
Total	10,918	2,643	13,098	160	114

*Note: U.S. Forest Service lands in Idaho, Montana, and Washington are not included in the proposal, although their area is reflected in the values in the table.

Q – How did the Service determine what lands should be proposed as critical habitat for lynx?

A – During development of this critical habitat proposal, the Service used the best scientific data available as well as information from State, Federal and Tribal agencies and from academic and private organizations. Based on this information, the Service first determined which lands were essential to the conservation of the Canada lynx by defining the physical and biological features essential to the conservation of the species and delineating the specific areas that contain those features as well as recent verified records of lynx presence and reproduction. Next, the Service limited the designation to lands that required special management.

To be included as critical habitat, an area had to provide the element considered to contribute to the conservation of lynx: boreal forest landscapes supporting a mosaic of differing successional forest stages containing: snowshoe hares and their preferred habitat of dense forest understories, winter snow conditions that are generally deep and fluffy to favor the morphological and physiological adaptations of lynx, and sites for lynx denning habitat supporting abundant large woody debris such as downed trees and rootwads.

Q – What areas of suitable lynx habitat were not included in this proposal?

A - Several areas that were identified as essential to the conservation of the species are not included in the proposed designation because they are covered by provisions in the Lynx Conservation and Assessment Strategy (LCAS), which was developed by the Forest Service, Bureau of Land Management, National Park Service and the U.S. Fish and Wildlife Service. The LCAS uses the best scientific information available to provide a consistent and effective approach to conserve lynx. Lands managed by the LCAS do not need special management or protection as they are already covered.

Areas not included in the proposed designation for this reason include portions of the Superior National Forest in northeastern Minnesota, the Bureau of Land Management

Garnet Resource Area in the Northern Rockies (Montana), the Flathead Indian Reservation in Montana, and the Bureau of Land Management Spokane District in the North Cascades in Washington.

In addition, Federal lands within seven National Forests in Idaho, Montana, and Washington are not included in the proposal because they are covered by the May 2005 Conservation Agreement which provides measures to reduce or eliminate risks to lynx and lynx habitat until long-term conservation plans are in place. Lands within the Flathead, Helena, Idaho Panhandle, Lewis and Clark, Lolo, Kootanai and Okanogan-Wenatchee National Forests are included in the estimated square miles of proposed habitat designation owing to difficulties in obtaining accurate estimates of the area of Federal land within each national forest boundary in a timely manner. This will be corrected in the final designation.

Q – What areas are being considered for exclusion from the final critical habitat designation?

A - Some State and Federal lands included in this proposal are in the process of amending or revising their management plans to incorporate the LCAS or similar management. The Service may consider excluding these lands from the final designation of critical habitat based upon further analysis and public comment if, prior to the final designation, the Service determines that these lands are covered by final management plans that provide for the conservation of the lynx. Certain Tribal lands are also being considered for exclusion because we believe that lynx conservation can be achieved off of Tribal lands within the critical habitat units. Additionally, we will evaluate the adequacy of existing management plans to conserve lynx on National Park Service lands.

Q – Why are some particular areas not included in the proposed designation?

A – The Service is seeking public comment on whether lands in three areas, a) the Greater Yellowstone Ecosystem (Wyoming, Montana, and Idaho), b) the “Kettle Range” in Ferry County, Washington and c) the Southern Rocky Mountains, are essential for the conservation of the species and the basis for why they might be essential.

Although lynx currently occupy the Greater Yellowstone Ecosystem, their presence has been at a lower level compared to areas that are being proposed as critical habitat. The Service concluded that habitat in this area is less capable of supporting snowshoe hares because it is naturally marginal (more patchy and drier forest types) and because the Greater Yellowstone area is disjunct from likely source populations. Therefore, because of the low numbers of lynx records, which is likely a result of lower quality habitat, the Service did not propose to designate critical habitat for lynx within the Greater Yellowstone Ecosystem.

In the Southern Rocky Mountains (Colorado and southern Wyoming), native lynx were functionally extirpated by the time the lynx was listed in 2000. In 1999, the State of Colorado began an intensive effort to reintroduce lynx. Although it is too early to

determine whether the introduction will result in a self-sustaining population, the reintroduced lynx have produced kittens and now are distributed throughout the lynx habitat in Colorado and southern Wyoming. These animals are not designated as experimental under section 10(j) of the Endangered Species Act. Although Colorado's reintroduction effort is an important step toward the recovery of lynx, the Service did not propose habitat in the Southern Rockies for designation because of the current uncertainty that a self-sustaining lynx population will become established.

The Kettle Range in north-central Washington historically supported lynx populations. However, although boreal forest habitat within the Kettle Range appears of high quality for lynx, there is no evidence that the Kettle Range is currently occupied by a lynx population; therefore, the Service did not propose the Kettle Range as critical habitat.

Q – How would Canada lynx benefit from having critical habitat designated?

A – Critical habitat receives protection under Section 7 of the Endangered Species Act (ESA) through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Aside from the added protection that may be provided under Section 7, the ESA does not provide other forms of protection to lands designated as critical habitat. Consultation under Section 7 of the ESA does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus such as funding or permits.

Critical habitat provides non-regulatory benefits to the species by informing the public and private sectors of areas that are important for species recovery and where conservation actions would be most effective. Designation of critical habitat can help focus conservation activities for a listed species by identifying areas that contain the physical and biological features that contribute to for the conservation of that species, and can alert the public and land-managing agencies to the importance of those areas. Critical habitat also identifies areas that may require special management considerations or protection, and may help provide protection to areas where significant threats to the species have been identified, by helping people to avoid causing accidental damage to such areas.

Q – Who could be affected by this proposed critical habitat designation?

A – Federal agencies are required to consult with the Service on actions they carry out, fund, or authorize that might affect critical habitat. It is important to note that in most cases, this is already occurring under the section 7 interagency consultation requirements of the Endangered Species Act. Non-federal entities, including private landowners, that may also be affected could include, for example, those seeking a U.S. Army Corps of Engineers 404 permit under the Clean Water Act or those seeking federal funding to implement private property improvements, where such actions affect lands designated as critical habitat. But again, in most cases this is already occurring under the section 7 interagency consultation requirements of the Endangered Species Act.

Q - How could a critical habitat designation affect private lands?

A - Requirements for consultation on critical habitat do not apply to entirely private actions on private lands. Critical habitat designations only apply to Federal lands or Federally funded or permitted activities on private lands. Activities on private or State lands that are funded, permitted or carried out by a Federal agency, such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act, or a section 402 permit under the Clean Water Act from the Environmental Protection Agency, will be subject to the section 7 consultation process with the Service if those actions may affect critical habitat or a listed species.

Through this consultation, the Service would advise agencies whether the permitted actions would likely jeopardize the continued existence of the species or adversely modify critical habitat. Federal actions not affecting critical habitat or otherwise affecting Canada lynx or their habitat (e.g., suitable habitat outside of critical habitat), and actions on non-Federal lands that are not federally funded, permitted or carried out, will not require section 7 consultation.

Q – What effect would a proposed critical habitat designation have on fire suppression activities?

A – None. Fire suppression activities are generally treated as emergencies. Once the emergency is under control, the Federal agency would be subject to the advisory conferencing provisions described below.

Q – What effect would a proposed critical habitat designation for Canada lynx have on National Fire Plan interagency coordination?

A – It would prompt Federal agencies to consider the effects of proposed actions on the Critical Habitat. If they determine that there will be no effects, no further compliance with the ESA is required. If a Federal agency determines that those effects will constitute adverse effects, they are required to conference with the Fish and Wildlife Service. Conferencing can take the form of informal discussions during which the Fish and Wildlife Service can make advisory recommendations or it can be conducted like a formal consultation with the issuance of an advisory conference opinion which, under certain conditions, can be converted to a biological opinion. The Fish and Wildlife Service can also request a conference if the Service believes one is appropriate.

Q – How would timber harvest and forestry management practices be affected by a critical habitat designation?

A – Timber harvest and associated forestry management can be beneficial or detrimental to lynx depending on harvest methods and specifications.

Forestry practices can be beneficial for lynx when the resulting understory densities meet the forage and cover needs of snowshoe hare. Although areas that are cut may not be

initially used by snowshoe hare and lynx, after regeneration those areas can provide high quality hare habitat and sustain lynx populations.

Thinning activities (e.g. mechanized pre-commercial thinning or herbicide treatments) to promote vigorous growth of fewer trees removes the understory cover preferred by snowshoe hares. As a result, thinned stands have lower snowshoe hare densities needed to support lynx populations.

Federal land management agencies, including the U.S. Forest Service and Bureau of Land Management, currently follow the provisions of the Lynx Conservation Assessment and Strategy (LCAS) in determining the effects of their actions on lynx. Because the LCAS provides the best scientifically-based conservation measures known for lynx at this time, we anticipate the LCAS will continue to be used to evaluate the effects of Federal actions on critical habitat.

For actions that are entirely private or with no Federal involvement, consultation is not necessary.

Q – Will a critical habitat designation have economic impacts?

A – An economic analysis of the proposed critical habitat designation will be completed and subject to public review prior to a final decision.

The Secretary of the Interior may exclude any area from critical habitat if the benefits of exclusion outweigh the benefits of inclusion, as long as the exclusion would not result in the extinction of the species.

Q – How long does a critical habitat designation remain in effect?

A – A critical habitat designation remains in effect until the species is considered to be recovered, and is delisted.

Q – Will I have an opportunity to comment on the proposed critical habitat designations?

A – Public comments on this proposal will be accepted until February 7, 2006. Written comments can be submitted via e-mail to FW6_lynx@fws.gov or mailed to Montana Field Office, U.S. Fish and Wildlife Service, 100 N. Park Avenue, Suite 320, Helena, Montana 59601.

Oral and written comments will be accepted at the following scheduled public hearings:

Minnesota

Wednesday, December 7, 2005, from 7:30 to 9:00 PM at The Inn on Lake Superior, 350 Canal Park Drive, Duluth, Minnesota. The hearing will be preceded by an informational session from 6:00 to 7:30 PM.

Maine

Wednesday, December 14, 2005, from 8:00 to 9:00 PM at the Black Bear Inn and Conference Center, 4 Godfrey Drive, Orono, Maine. The hearing will be preceded by an informational session from 7:00 to 8:00 PM.

Montana

Tuesday, January 10, 2006, from 6:00 to 8:00 PM at Westcoast Kalispell Center, 20 North Main Street, Kalispell, Montana. The hearing will be preceded by an informational session from 4:30 to 6:00 PM.

Washington

Wednesday, January 18, 2006, from 7:00 to 8:30 PM at Methow Valley Community Center, 201 South Methow Valley, Hwy 20, Twisp, Washington. The hearing will be preceded by an informational session from 5:00 to 6:30 PM.